

1 Traeger Machetanz, Esq.  
2 OLES MORRISON RINKER & BAKER, LLP  
3 745 Fourth Avenue, Suite 502  
4 Anchorage, AK 99501-2136  
5 Telephone: (907) 258-0106  
6 Telecopier: (907) 258-5519

7 Attorneys for Nugget Construction Co.,  
8 Inc., and USF&G, Defendants

9  
10 IN THE UNITED STATES DISTRICT COURT

11 FOR THE DISTRICT OF ALASKA AT ANCHORAGE

12 UNITED STATES OF AMERICA for the )  
13 use of NORTH STAR TERMINAL & )  
14 STEVEDORE COMPANY, d/b/a NORTHERN )  
15 STEVEDORING & HANDLING, and NORTH )  
16 STAR TERMINAL & STEVEDORE COMPANY, )  
17 d/b/a Northern Stevedoring & )  
18 Handling, on its own behalf, )  
19 Plaintiffs, )  
20 and )  
21 UNITED STATES OF AMERICA for the )  
22 use of SHORESIDE PETROLEUM, INC., )  
23 d/b/a Marathon Fuel Service, and )  
24 SHORESIDE PETROLEUM, INC., d/b/a )  
25 Marathon Fuel Service, on its own )  
26 behalf, )  
27 Intervening Plaintiffs, )  
28 and )  
29 METCO, INC., )  
30 Intervening Plaintiff, )  
31 vs. )  
32 NUGGET CONSTRUCTION, INC.; SPENCER )  
33 ROCK PRODUCTS, INC.; UNITED )  
34 STATES FIDELITY AND GUARANTY )  
35 COMPANY; and ROBERT A. LAPORE, )  
36 Defendants. )  
37 \_\_\_\_\_)

38 No. A98-009 CIV (HRH)

39 DEFENDANT NUGGET  
40 CONSTRUCTION'S MOTION TO  
41 EXTEND DEADLINE FOR  
42 EXPERT REPORTS

1 COMES NOW, Defendant Nugget Construction, Inc. by and  
2 through its counsel of record, Oles Morrison Rinker & Baker LLP,  
3 seeking an order from the court extending the deadline for  
4 filing of expert reports from the presently scheduled date of  
5 February 14, 2006 to March 27, 2006.  
6

7 On October 11, 2005, the parties, through North Star's  
8 counsel, submitted a Report and Proposed Calendar of Counsel  
9 Following Conference in Accordance with Court's Order Dated  
10 August 11, 2005. In that Report, the parties set forth a  
11 Pretrial Checklist that included a deadline for "Final witness  
12 lists and identification of lay and expert witnesses and related  
13 information" of February 14, 2006. In the Report, the parties  
14 indicated that this action included the disclosure of expert  
15 reports pursuant to Rule 26(a)(2).  
16

17 On December 27, 2005, Nugget submitted its Third  
18 Supplemental Disclosure, in which it identified Bert Millikin as  
19 an expert witness. The Disclosure included a general  
20 description of the opinions to be expressed by Mr. Millikin. It  
21 stated that he "will testify on practices and contractual  
22 relationships between owners and general contractors and lower  
23 tier subcontractors and suppliers on federal projects, including  
24 U.S. ex rel. North Star, et al. v. Nugget Construction, et al.  
25

Case No. A98-009 CIV (HRH)  
DEFENDANT NUGGET CONSTRUCTION'S MOTION TO  
EXTEND DEADLINE FOR EXPERT REPORTS -- Page 2 of 5

1 without limitation, the handling of pay estimates and payments,  
2 back charges and subcontractor and supplier default." To  
3 support this testimony, access to the testimony of the key  
4 individuals for each of the subcontractors relating to their  
5 experience on the project is important.  
6

7 The availability of Jack Goodwill, North Star's  
8 project manager, was requested on February 1, 2006 in the hope  
9 of deposing him before expert reports were due. On February 6,  
10 2006, North Star's counsel responded that Mr. Goodwill was about  
11 to leave on a long family vacation, was not available for  
12 deposition before leaving, but would be available after he  
13 returned on March 13, 2006.  
14

15 Based on Mr. Goodwill's unavailability, Nugget asks  
16 the court to extend the previously agreed deadline for expert  
17 reports to March 27, 2006. Nugget's counsel sought agreement  
18 from all parties to this extention and offered to allow  
19 sufficient time to study the report and depose Mr. Millikin  
20 after that date, even if it meant extending the discovery cutoff  
21 date. However, North Star's counsel responded that North Star  
22 was unwilling to stipulate to the requested extension. Counsel  
23 for USF&G replied and asked specifically for the deadline of  
24 U.S. ex rel. North Star, et al. v. Nugget Construction, et al.  
25 Case No. A98-009 CIV (HRH)

DEFENDANT NUGGET CONSTRUCTION'S MOTION TO  
EXTEND DEADLINE FOR EXPERT REPORTS -- Page 3 of 5

1 March 27, 2006, which is what is being requested herein.  
2 Shoreside and Metco did not respond before this motion was  
3 filed.

4  
5 There is no prejudice to Plaintiffs in the requested  
6 extension, as they were informed in December the scope of  
7 Mr. Millikin's testimony and Nugget has offered to extend the  
8 timeframes for deposing Mr. Millikin after the report is  
9 delivered. Mr. Goodwill's vacation was unexpected (he no longer  
10 works for North Star), but North Star has agreed to make him  
11 available on March 16, 2006 for his deposition. Once that is  
12 completed, Mr. Millikin will be able to complete his expert  
13 report shortly thereafter. Based on the foregoing, Nugget's  
14 request for an extension of the expert report deadline should be  
15 granted.

16 Dated: February 14, 2006

17 OLES MORRISON RINKER & BAKER LLP  
18 Attorneys for Nugget Construction,  
19 Inc., and United States  
Fidelity and Guaranty Co.

20 By: s/Traeger Machetanz

21 Traeger Machetanz  
[machetanz@oles.com](mailto:machetanz@oles.com)  
22 Alaska Bar No. 8411127  
23 745 West 4<sup>th</sup> Avenue, Suite 502  
Anchorage, AK 99501  
24 Phone: (907) 258-0106  
Fax: (907) 258-5519

25 *U.S. ex rel. North Star, et al. v. Nugget Construction, et al.*  
Case No. A98-009 CIV (HRH)  
DEFENDANT NUGGET CONSTRUCTION'S MOTION TO  
EXTEND DEADLINE FOR EXPERT REPORTS -- Page 4 of 5

1 P-TM MOTION EXTEND RE EXPERT REPORTS

2 CERTIFICATE OF SERVICE

3 I hereby certify that on this 14th  
day of February, 2006, a true and correct  
copy of the foregoing was served

4 electronically via ECF on:

5 Michael W. Sewright, Esq.

[mws@bpk.com](mailto:mws@bpk.com)

6 Burr, Pease & Kurtz  
810 N Street  
7 Anchorage, AK 99501

8 Steven J. Shamburek, Esq.

[shamburek@gci.net](mailto:shamburek@gci.net)

9 Law Office of Steven J. Shamburek  
425 G Street, Suite 630  
10 Anchorage, AK 99501-5872

11 Paul Stockler, Esq.

[paulstockler@aol.com](mailto:paulstockler@aol.com)

12 1309 West 16<sup>th</sup> Avenue  
Anchorage, AK 99501

13 Herbert A. Viergutz, Esq.

[barmar@gci.net](mailto:barmar@gci.net)

14 Barokas Martin & Tomlinson  
15 1029 West Third, Suite 280  
Anchorage, AK 99501

16 and by U.S. mail on:

17 C. Patrick Stoll, Esq.

18 Herrig Vogt & Stoll LLP  
4210 Douglas Bay Blvd., Suite 100  
Granite Bay, CA 95746-5902

19 OLES MORRISON RINKER & BAKER LLP

20 By: s/Traeger Machetanz

21  
22  
23  
24  
25 *U.S. ex rel. North Star, et al. v. Nugget Construction, et al.*

Case No. A98-009 CIV (HRH)

DEFENDANT NUGGET CONSTRUCTION'S MOTION TO

EXTEND DEADLINE FOR EXPERT REPORTS -- Page 5 of 5